



# CITY OF ELY

501 Mill Street Ely, Nevada 89301  
City Hall (775) 289-2430 - Fax (775) 289-1463

## ELY CITY COUNCIL MEETING

March 8, 2018 5:00 p.m. – Ely Volunteer Fire Hall - 499 Mill Street-Ely, Nevada.

1. Mayor Van Camp called the Regular Meeting of the Ely City Council to order at **5:03 p.m.**, led in the Pledge of Allegiance, Father McShane offered the Invocation and Mayor Van Camp asked for Roll Call.

Members present:

Mayor Melody Van Camp  
Councilman Kurt Carson  
Councilman Tony DeFelice  
Councilwoman Jolene Gardner  
Councilman Sam Hanson  
Councilman Flangas was present via phone only for Item 9B-1

City Staff present:

City Administrator Robert Switzer  
City Attorney Charles Odgers  
City Treasurer Janette Trask  
City Engineer B.J. Almberg  
City Fire Chief Ross Rivera  
Municipal Court Judge Coster  
City Police Chief Henriod  
Deputy City Clerk Jennifer Lee

Also in attendance: Members of the public signed in (appears below)

Ely City Council attendance list. 3-8-18

MAUREEN Otzelberger	Catherine Kokane
Tamera Brown	_____
Leon Phillips	Brett North
John Mueller	Trent Griffith
Amy Castaldo	Kay Rivera
Nichole Baldwin	Caroline M. Hinkley
Lois Goh	_____
George Chachas	_____
Dolly Galt	_____
Chris Marshall	_____
Scott Henrich	_____
Kelli Dunbar	_____
Chris Beck	_____
Pat Robison	_____
Kay Murray	_____
Mike Coster	_____
_____	_____
Sala Brandis	_____
Burton Hiltner	_____

## 2. PUBLIC COMMENT

Kerrie Pintar stated Kerri Pintar, 1417 Mill Street. Madam Mayor, in November 2017, the Direct TV bill for the City of Ely was \$92.53; as of February 2018, that's up to \$127.53, so it went up \$35.00 from November to February. I'm thinking someone from the City needs to renegotiate that bill because that seems high to pay for Direct TV for one or two pieces of equipment. I pay \$133.00 and I have six pieces of equipment. As to the item on the public hearing, I picked up a copy of the street map – on my pdf., it was page number 6, but on here it's designated page 2 of 9 - and Canon Street from the 1907 City plan map isn't listed, except from Mill Avenue to 4<sup>th</sup> Avenue, because that's all of Canon Street that's usable, from the Armory to 4<sup>th</sup> Avenue where it dead ends by Tex's house. If we are going to continue to call that a very important road in the City master plan, then we either need to do something with it or we need to abandon it because you can't claim it on one section, telling me how important it is, and then tell me it's not important when you're filing a report for the State.

Burton Hilton stated Honorable Mayor and Council Members, I am Burton Hilton and I'm a Volunteer with the Ely Volunteer Fire Department and I'm here to address Item No. 8 under New Business that's for the Hall rental here. We look forward to continuing our relationship with the City for the use of the Volunteer Hall; we believe it has served both parties well during the three year agreement we are operating under and we hope that we can come to an agreement to continue this relationship. As I stated at the last meeting, the City, career staff and Volunteers need each other to be successful and having this agreement in place helps cement our relationship. Without one of these pieces, the ability of for the City to provide public safety for its citizens, visitors and throughout the County for fires, accidents and EMS calls evaporates. As you move forward with your budget process, I hope that you'll heed this warning: Upset the apple cart on either side and it will fall away.

Joe Dice stated I'm here to speak about the proposed new dispensary in the City of Ely. I want to encourage you guys not to approve that. The Tribe has offered you a compact where you would actually receive great tax benefits from doing business with them. I believe the NRS only allows one dispensary in a population this size and I would encourage you to look at the Tribe's, rather than having a proliferation of dispensaries in town.

Deputy City Clerk Lee read the public comment into the record appearing below.

From: Rick Stork [rickstork@sbcglobal.net]  
Sent: Thursday, March 08, 2018 4:10 PM  
To: JenniferLee  
Subject: Please read into public comment at tonight's meeting

March 8, 2018

On January 25, 2018, you had an item on your agenda regarding an agreement with White Pine County on joining elections with them. You had a first reading of this ordinance that night. The meeting scheduled for February 22, 2018, had an agenda item on for the second reading of this ordinance. That item was requested to be tabled, it was seconded and passed. Now on tonight's meeting you have schedule again an agenda item for the second reading of this ordinance.

An e-mail came out from Jennifer Lee with a signed Cooperative Agreement for Election Services between White Pine County and the City of Ely. This agreement was entered into on the 24th day of January, 2018, and was signed by Mayor Melody Vancamp on 1-11-18, signed by Ely City Clerk Robert Switzer on 1-12-18, and signed by White Pine County Commission Chairman Richard Howe and White Pine County Clerk Nicole Baldwin on 1-24-18

Now you have this item back on the agenda tonight for a second approval to be voted on by the City Council. So, the item has not been voted on, yet you have a signed Agreement with White Pine County, which was signed even before your first reading on January 25, 2018. How can the Mayor and the City Administrator sign this type of agreement before it is approved by the Council.

Rick Stork

George Chachas stated Madam Mayor, on your agenda item 9B Old Business, you're to consider the possible approval of Ordinance 708, Bill No. 2018-01 regarding the City election; that item needs to be put on the ballot for the voters to decide, not self-serving politicians who are failing in their due diligence and putting the City through financial hardship. You people have done nothing that shows any attempt to stabilize the City's financial position. You should all resign or face prosecution for malfeasance, misfeasance, and nonfeasance. On Item 9C-3 you're to consider reducing the \$10.00 space fee by 80% to \$2.00 per space. You need to stop reducing the fees for the fair-haired friends of yours and roll back the business license fees you just put in for the brick and mortar business. There's a big difference between those businesses who stick it out in this community day in and day out and those just passing through. On your agenda item 9C-7 you're to consider issuing back pay checks with benefits to paid City Firefighters responding as Volunteers; that needs to be denied. In previous Union/City negotiations, it was agreed a schedule would be worked out to avoid all overtime in keeping with the City Personnel Policy 2.20 thru 2.20.3; if the Fire Chief can't adhere to that, then you need to make changes. The City has other departments that stay within their budgets and they are paid far less. The Fair Labor Standards Act covers all employees. On your agenda 9C-8 you're to consider Ely Volunteer Fire Hall lease; the City needs to

look elsewhere in keeping with Nevada Open Meeting Law regarding private clubs. To date I've not been reimbursed for two damaged cameras caused by City employees/so-called Volunteers, not have I been reimbursed for the Trespass fine I had to pay, including several thousand dollars for attorney's fees; I want that money back. Item 9C-9, you need to hire an accountant as required by City Code instead of paying the CPA.

Treasurer Trask stated I addressed that issue and he should be shut down.

Mayor Van Camp stated that item's already been addressed.

George Chachas stated on your agenda Item 9C-11 regarding the placement of landfill fees on the tax roll. There is a so-called uncollected, outstanding balance of \$391,000.00 that City Clerk Jim Alworth, Treasurer Trask and Councilwoman Jolene Gardner let go for several years; it's their responsibility, not the taxpayers.

City Attorney Odgers stated Mr. Chachas made the comment that the City has increased brick and mortar business licenses; the City has not increased those licenses since 2008. There's been no increase applied to anybody for a business license, so Mr. Chachas does not have his facts correct.

### **3. Mayor – Discussion/For Possible Action – Approval of Agenda, including removal of agenda items.**

Councilman Hanson move to approve the agenda. Councilwoman Gardner seconded the motion. The motion carried unanimously.

### **4. CITY DEPARTMENT REPORTS**

- **FIRE CHIEF**

Fire Chief Rivera stated the new fire truck is in service and we're still putting things on it that the Volunteers purchased. Matt Swenson and Burton Hilton passed and are now certified for Firefighter 1/Firefighter 2 for the Ely Volunteer Fire Department.

- **MUNICIPAL COURT JUDGE**

Municipal Court Judge Coster stated with the assistance of the City Administrator, we have posted an internal vacancy announcement. With the assistance of the City Administrator and the City Treasurer, we're working to reduce the overall number of hours. There will be two part-time employees in a way that will still serve the public, with a reduction in window hours.

- **CITY ADMINISTRATOR**

City Administrator Switzer stated Janette and I have met with Department Leads to go over budgets. This morning I met with Raul, our Water Operator and the City Engineer to discuss issues with the Waste Water Treatment Plant.

- **CITY ENGINEER**

City Engineer Almborg stated we did meet with Raul today and the ultimate summary that came out of that meeting was currently the treatment plant has been wasting, coming out of the clarifier every three hours; Raul wants to reduce that. One of the problems with wasting is as you're trying to do a culture and grow bugs, wasting is taking them out of the circuit, so that needs to be re-circulated back in. Raul doesn't want to make major modifications and wants to reduce the wasting to once a week to try and get more culture growing in there. The ball bearing on our screw pump did go out, so we're in the process of taking that to the manufacturer to get another one; it has 100,000 hour warranty and we're not near that. We met with the County and their company that hosts their GIS system; part of that conversation was to see what it would take to get our GIS information up onto their GIS stuff. It's not in the public interest for us to have our own GIS system; if we can share some of those services, I think it would be a benefit. The information on there would go a long way in asset management of our infrastructure. NDOT is moving forward with their Aultman Street project and we have a meeting with them later this month to begin merging our improvements together.

Mayor Van Camp asked when will the project plans be finalized with DOT?

City Engineer Almborg stated the current schedule is that in December of this year it will hit the street and we advertise for award. It will probably be awarded in March of the following year to begin construction this time next year.

## 5. NNRY FOUNDATION REPORT

**Nevada Northern Railway Foundation**  
Depot: 1100 Avenue A, Ely, Nevada 89301  
Mailing Address: PO Box 150040, Ely, Nevada 89315  
Voice: (775) 289-2085 • Web: [www.nnry.com](http://www.nnry.com) • E-mail: [info@nnry.com](mailto:info@nnry.com)



### Monthly Operations Report for February 2018

1. Locomotive Status – Updated
  - a. Locomotives in service: #40, #93, #105, #109, #204, #310, Wrecking Crane A & Rotary B.
  - b. Locomotives out of service needing moderate repairs: #45 – We have started repairs on this locomotive.
  - c. Locomotives waiting funding for restoration: Steptoe Valley Smelting and Mining #309, #81 and Rotary Snowplow B (for boiler overhaul.)
  - d. Locomotives out of service needing heavy repairs #801, #802, #81, #80 and the military locomotives
2. Rolling Stock Status – No change
  - a. Passenger equipment in service: #07, #08, #09, Flatcar #23, Coach #5, Baggage Car/RPO #20, Outfit Car #06.
  - b. Passenger equipment out of service: #10, #2 and #05 needing heavy repairs.
  - c. Caboose in service: #3, #6 and #22 are operational.
  - d. Caboose out service: #5
3. Track Status – No change
  - a. Keystone Branch is open
  - b. Adverse Branch is open.
  - d. The Foundation received a \$347,670.22 grant to replace the signals at the US 93 crossing. The parts for the crossing have finally shown up. We will do the construction in the spring.
4. Building Status – No change
  - a. We're working on the Carpenter Shop.
  - b. McGill Depot - Our next step is to do the electrical work, outlets, switches and lights.
  - c. The garage that was hit by a car is repaired. This project is complete.
5. Ridership and Ticket Sales – Updated
  - a. On the Winter Photo Shoots, during the first weekend we had 30 participants and on the second weekend we had 36 participants. Both weekends were sell outs.

### Award Winning Destination

Best Tour in Rural Nevada – 2017  
Nevada State Treasure – 2013 & 2012  
Trip Advisor Certificate of Excellence – 2017, 2016, 2015, 2014  
Best Preservation Effort in the West • Attraction of the Year – 2012  
Best Museum in Rural Nevada – 2017, 2016, 2014, 2013, 2010, 2009, 2008  
Best Museum - Special Recognition – 2010 • Favorite Nevada Attraction – 2008  
Best Event in Rural Nevada – The Polar Express – 2017, 2016, 2015, 2014 & 2013  
Best Place to Take the Kids in Rural Nevada – 2015, 2014, 2013, 2012, 2011, 2010, 2009, 2008, 2007



## 6. REPORTS

### **CITY COUNCIL**

Councilman Hanson stated my daughter-in-law gave birth to a baby girl and I am retiring from the School District.

### **MAYOR**

Mayor Van Camp reviewed her report appearing below and stated I attended the Broadband Meeting and it's moving forward. I also attended the Main Street informational meeting.

**March 8, 2018**

### **MAYOR'S REPORT**

#### **1. I approved a Special Event licenses to:**

- Ray Keller to sell firewood at 1435 Aultman Street 2-27-18 thru 3-1-18.
- Silver State Classic Challenge at 150 6<sup>th</sup> St. 5-17-18 to 5-20-18 for race activities.
- Silver State Classic Challenge at 150 6<sup>th</sup> St. 9-13-18 to 9-15-18 for race activities.

**9. ITEMS FOR DISCUSSION/POSSIBLE ACTION ONLY OF THE ELY CITY COUNCIL.**

**A. CONSENT AGENDA**

**MOTION:** Move to approve the Consent Agenda item 9A-1 Minutes and 9A-2 Bills.

1. Discussion/For Possible Action –Minutes.
  - January 25, 2018
  - January 29, 2018
2. Discussion/For Possible Action –Bills.
  - February 21, 2018
  - February 28, 2018

Mayor Van Camp stated number 9, items for discussion/possible action only of the Ely City Council. This is the Consent Agenda and would there be any corrections to the minutes and if not, may I have a motion to approve?

Councilman Hanson stated I move that we approve the Consent Agenda and the Minutes. I didn't notice anything in there that would need to be changed, in my opinion.

Councilman Carson stated I'll second.

Mayor Van Camp stated okay. Any discussion? All in favor?

Councilman Carson stated Aye.

Councilman DeFelice stated Aye.

Councilwoman Gardner stated Aye.

Councilman Hanson stated Aye.

Mayor Van Camp asked opposed?

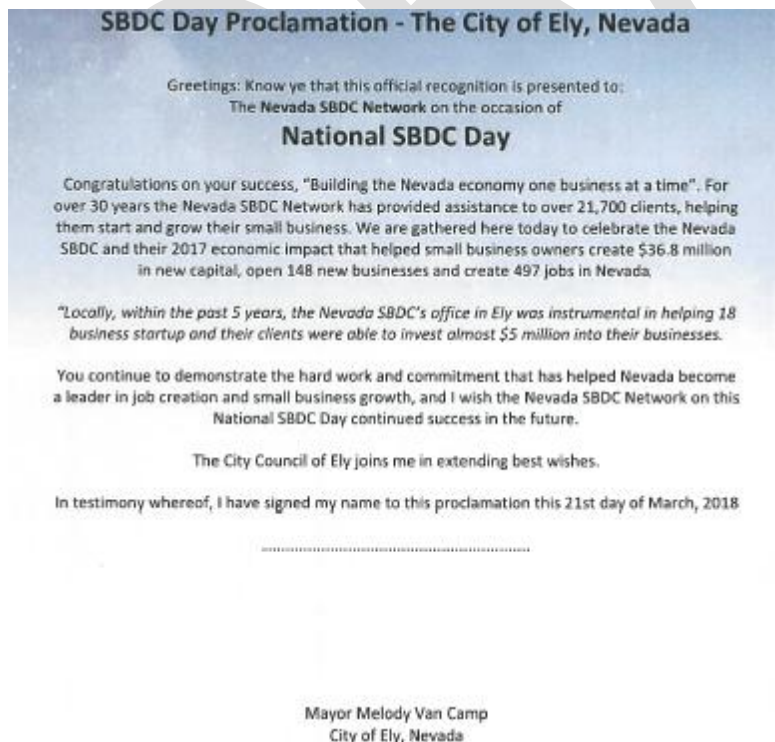
Councilman Hanson's motion carried unanimously.

**C. NEW BUSINESS**

1. Mayor Van Camp – Tamera Brown, Nevada Small Business Development Center (SBDC) Eastern Region Business Advisor – Discussion/For Possible Action – Approval of Proclamation designating March 21, 2018 “National SBDC Day” in the City of Ely.

City Attorney Odgers stated I need to disclose I've used the service Tamera represents.

Tamera Brown read the Proclamation appearing below and stated I'm a business counselor for SBA.



Councilman Hanson moved to approve the Proclamation designating March 21, 2018 “National SBDC Day” in the City of Ely. Councilwoman Gardner seconded the motion. The motion carried unanimously.

**Mayor Van Camp recessed the Ely City Council at 5:28 p.m.**

**Mayor Van Camp reconvened the Ely City Council at 5:32 p.m.**

**7. THE CITY COUNCIL WILL RECESS THE REGULAR CITY COUNCIL MEETING FOR A PUBLIC HEARING AT 5:30 P.M. ON THE FOLLOWING TOPICS.**

1. Council Members – City Engineer Almberg – City Street Leadman Berky – Public Hearing – Discussion Only – Pursuant to NRS 365.550 (8) (a) and (b), Approval of Certification of Roads within the City of Ely.

George Chachas stated in looking at this map, there's no discerning labels. I want to make sure Parker in Central Ely is on there; it's slowly deteriorating. That goes for Orson, Strandman, Ely Avenue, Ely Street, Nevada Avenue.

2. Councilwoman Gardner – Public Hearing – Discussion Only – Approval of Second Reading of Ordinance 710, Bill No. 2018-03, an Ordinance amending City Code Title 3, Chapter 1, Section 4 General Business Licenses, to change the due date of all business licenses to July 1 of each year, to allow for the pro-rating of business licenses for businesses starting on a date other than July 1 of each year.

There was no public comment.

**8. DISCUSSION/POSSIBLE ACTION ITEMS PERTAINING TO THE PUBLIC HEARING.**

1. Council Members – City Engineer Almberg – City Street Leadman Berky – Discussion/For Possible Action – Pursuant to NRS 365.550(8) (a) and (b), Approval of Certification of Roads within the City of Ely.

City Street Leadman Berky stated as the agenda item, we're just looking for approval of the certification for our road tax miles. We added about a quarter (¼) mile with the *Love's* expansion to our road miles. Even though on some of the maps, you can't read all the street names, all the streets in Ely are on our certification.

Councilman Hanson stated remembering what Mrs. Pinter said earlier about Canon Street, and having been up there and seen it, unless we get a really generous developer that would plow away half the side of the mountain, there really isn't a street there.

City Street Leadman Berky stated I've been here for thirteen years and we've never maintained that portion of the road, so it's not on here as part of our fuel tax miles.

City Attorney Odgers stated the law requires you to identify those roads that are being maintained.

Councilman Hanson moved to approve the Certification of Roads within the City of Ely. Councilwoman Gardner seconded the motion. The motion carried unanimously.

2. Councilwoman Gardner – Discussion/For Possible Action – Approval of Second Reading of Ordinance 710, Bill No. 2018-03, an Ordinance amending City Code Title 3, Chapter 1, Section 4 General Business Licenses, to change the due date of all business licenses to July 1 of each year, to allow for the pro-rating of business licenses for businesses starting on a date other than July 1 of each year.

City Administrator Switzer stated I submitted a sample schedule for pro-rata fees.

Councilman Hanson moved to approve the Second Reading of Ordinance 710. Councilwoman Gardner seconded the motion. The motion carried unanimously.

**9. ITEMS FOR DISCUSSION/POSSIBLE ACTION ONLY OF THE ELY CITY COUNCIL.**

**B. OLD BUSINESS**

1. Councilwoman Gardner – City Administrator Switzer – Discussion/For Possible Action – Approval of Second Reading of Ordinance No. 708, Bill No. 2018-01, an ordinance amending City Code Title 1, Chapter 8 Elections by replacing the current version of Title 1, Chapter 8 based upon the Inter-Local Agreement for Elections with White Pine County, with a completely new version of Title 1, Chapter 8 Elections and to provide for the removal of the new version and reinstatement of the original version upon termination of the Inter-Local Agreement.

**Councilman Flangas joined the meeting via phone at 5:40 p.m.**

City Administrator Switzer reviewed the Agenda Report appearing below and stated my girlfriend works at the County Clerk's office, who is our contact for this issue.



**AGENDA REPORT  
OLD BUSINESS  
March 8, 2018**

To: Mayor and City Council  
From: Robert Switzer, City Administrator  
Through: Robert Switzer, City Administrator  
Subject: **Ordinance 708, Bill No. 2018-01 Action**  
Date: March 5, 2018

---

**PROPOSED MOTION:**

**I MOVE THE CITY COUNCIL APPROVE ORDINANCE 708, BILL NO. 2018-01:**

An ordinance amending City Code Title 1, Chapter 8 Elections by replacing the current version of Title 1, Chapter 8 based upon the Inter-Local Agreement for Elections with White Pine County, with a completely new version of Title 1, Chapter 8 Elections and to provide for the removal of the new version and reinstatement of the original version upon termination of the Inter-Local Agreement.

**SUMMARY:**

The approval of this ordinance would change both the costs and the timing of the City's primary and general election cycles. For many years city elections have been held on odd-numbered years with the city expending general fund monies to pay for both elections. Prior analysis on utilizing the county's voting machines resulted in excessive costs to the City from loading and maintaining its voter database. The recent addition of new technology and new voting machines which the County obtained in part from state grants, has made it financially and operationally practicable to merge the City's elections to coincide with national, state, and county cycles.

**BACKGROUND:**

1. The City has utilized personnel and funds to conduct its own elections.
2. This ordinance along with the inter-local agreement would reduce general funds resources expended every other year.
3. Changing the City's election cycle may increase voter turnout, especially in presidential elections every four years.
4. Current Council members would serve an additional 16 months on their current term.

**CURRENT SITUATION:**

The City has been exploring ways to reduce General Fund expenditures; all of the costs of conducting elections derives from the General Fund.



**ANALYSIS:**

**A. FINANCIAL**

In the 2015 election cycle, the City spent \$11,474.35 and in the 2017 cycle \$15,469.07; an average of \$13,471.71 per election, not including additional staff time in the pre and post-election time periods.

The approved inter-local agreement fee of 15 cents per registered City of Ely voter.<sup>1</sup> Currently, the City has 2,345 registered voters with the total cost to the city of \$351.75.

In the 2016 General Elections for the County, there were 703 City residents who turned out to vote. In the General election for 2016 there were 1812 City residents who turned out to vote. In 2017, during the City's primary election, there were 568 City residents who turned out to vote. In the 2017 primary election, there were 580 City residents who turned out to vote.

That means in 2017, the City spent \$13.50<sup>2</sup> per vote cast during 2017 versus the proposed \$0.15 per registered voter.

**B. TIMING**

**C. POLICY/LEGAL**

The City of Ely is a general law city, meaning that it was not created by Charter or by Legislative act, but an election of the then citizens. This means that NRS Chapter 293C govern all municipal elections.

The proposed ordinance seeks to amend the current ordinance which has the election cycle in odd numbered years pursuant to NRS Chapter 293C, to an election cycle in even numbered years and allow the City to utilize the County's voting machines etc... to conduct City elections at the same time as County, State and national elections. If passed all five members of the City Council and the Mayor would remain in their elected seats for an additional 1 year and approximately 5 months. The proposed Ordinance also provides a reversion clause in the event there is a termination of the Interlocal Agreement for Elections with the County.

NRS 293C.115 provides:

Governing body of general law city authorized to choose dates for primary and general elections; dates to be in accordance with this chapter or chapter 293 of NRS; effect upon terms of serving city officials.

<sup>1</sup> See Interlocal Agreement, Article V

<sup>2</sup> Calculated by dividing \$15,469.07 by 1148 total ballot's cast.

1. The governing body of a city incorporated pursuant to general law may by ordinance provide for a primary city election and a general city election on:

(a) The dates set forth for primary elections and general elections pursuant to the provisions of chapter 293 of NRS; or

(b) The dates set forth for primary city elections and general city elections pursuant to the provisions of this chapter.

2. If a governing body of a city adopts an ordinance pursuant to paragraph (a) of subsection 1, the dates set forth in NRS 293.12755,<sup>3</sup> in subsections 2 to 5,

<sup>3</sup>NRS 293.12755 Date. A general election must be held throughout the State on the first Tuesday after the first Monday of November in each even-numbered year.

inclusive, of NRS 293.165,<sup>4</sup> and in NRS 293.175,<sup>5</sup> 293.177,<sup>6</sup> 293.345<sup>7</sup> and 293.368<sup>8</sup> apply for purposes of conducting the primary city elections and general city elections of the city.

3. If a governing body of a city adopts an ordinance pursuant to subsection 1:

**<sup>4</sup> NRS 293.165 Procedure for filling vacancy in major or minor political party nomination or nonpartisan nomination.**

[...]

2. A vacancy occurring in a nonpartisan office or nomination for a nonpartisan office after the close of filing and before 5 p.m. of the fourth Friday in July of the year in which the general election is held must be filled by the person who receives or received the next highest vote for the nomination in the primary election if a primary election was held for that nonpartisan office. If no primary election was held for that nonpartisan office or if there was not more than one person who was seeking the nonpartisan nomination in the primary election, a person may become a candidate for the nonpartisan office at the general election if the person files a declaration of candidacy or acceptance of candidacy, and pays the fee required by NRS 293.193, on or after 8 a.m. on the third Monday in June and before 5 p.m. on the fourth Friday in July.

[...]

5. All designations provided for in this section must be filed on or before 5 p.m. on the fourth Friday in July of the year in which the general election is held. In each case, the statutory filing fee must be paid and an acceptance of the designation must be filed on or before 5 p.m. on the date the designation is filed.

**<sup>5</sup> NRS 293.175 Date of primary election; nomination of candidates; applicability of provisions governing nominations.**

1. The primary election must be held on the second Tuesday in June of each even-numbered year.

[...]

**<sup>6</sup> NRS 293.177 Declaration or acceptance of candidacy: Filing required before name may be printed on ballot; forms; contents; address of candidate; retention of proof of identity and residency; appointment of agent for service of process; investigation and disqualification of candidate who has been convicted of felony and has not had civil rights restored.**

1. Except as otherwise provided in NRS 293.165, a name may not be printed on a ballot to be used at a primary election unless the person named has filed a declaration of candidacy or an acceptance of candidacy, and has paid the fee required by NRS 293.193 not earlier than:

(a) For a candidate for judicial office, the first Monday in January of the year in which the election is to be held nor later than 5 p.m. on the second Friday after the first Monday in January; and

(b) For all other candidates, the first Monday in March of the year in which the election is to be held nor later than 5 p.m. on the second Friday after the first Monday in March.

[...]

**<sup>7</sup> NRS 293.345 Duty of county clerk to mail official mailing ballots to registered voters; sample ballot for mailing precinct to include notice concerning polling place where voters may vote in person if applicable.**

1. Before 5 p.m. on the last business day preceding the first day of the period for early voting for any primary election or general election, the county clerk shall cause to be mailed to each registered voter in each mailing precinct and in each absent ballot mailing precinct an official mailing ballot, and accompanying supplies, as specified in NRS 293.350.

[...]

**<sup>8</sup> NRS 293.368 Counting of votes cast for deceased candidate.**

1. Except as otherwise provided in subsection 4 of NRS 293.165, if a candidate on the ballot at a primary election dies after 5 p.m. of the second Tuesday in April, the deceased candidate's name must remain on the ballot and the votes cast for the deceased candidate must be counted in determining the nomination for the office for which the decedent was a candidate.

(a) The term of office of any elected city official may not be shortened as a result of the ordinance; and

(b) Each elected city official holds office until the end of his or her term and until his or her successor has been elected and qualified.

There is no legal impediment to the approval of this Ordinance.

The question was asked if the voters should make this decision. However, NRS 293C.115 places the responsibility of selecting the election cycle on the governing board, to establish the election cycle by ordinance. See NRS 293C.115 (1), supra.

NRS 293C.115(3)(b) provides that by changing the election cycle to run in even numbered years, versus odd numbered years, that the current elected officials will remain in their seats until their successor has been elected and qualified. Further, NRS 293C.115(3)(a) specifically states that no term of office may be shortened by deciding to move to even numbered years, rather than odd numbered years. This interpretation was likewise confirmed by the Secretary of State's Attorney General and AG Opinion 2005-02 (Ex. A).

The question was asked if the County had a problem with their voting machines, would the City of Ely be required to help fund replacements or repairs. The City Council approved an Interlocal Agreement for Elections in which both the City's responsibilities and the Counties responsibilities were laid out. In the Interlocal Agreement, Article II, section H states "Preparation, delivery and maintenance of all **voting equipment**, supplies and reports required at the polling places and during early voting" is the responsibility of the County. See also NRS 293B.125.<sup>9</sup>

In addition, the parties have agreed to a 90 day notice before November 30 in any even numbered year of the termination of the Interlocal Agreement. See Article VI. This allows both the City and County to take necessary steps to make necessary changes to their election processes.

#### **ALTERNATIVES:**

#### **RECOMMENDATION:**

The City Treasurer recommends approval if this will save the City general fund dollars.

#### **ATTACHMENTS:**

1.

---

<sup>9</sup> NRS 293B.125 Cost of mechanical voting system; payment for system.

1. The cost of a mechanical voting system is a charge upon the county or city adopting it.  
2. The board of county commissioners or city council or other governing body of any city may provide for the payment of the costs of such a voting system in such manner and by such method as they consider in the best local interests, and also may for that purpose issue bonds, certificates of indebtedness, or other obligations which are a charge on the county or city. The bonds, certificates or other obligations may be issued with or without interest, payable at such time as the authorities may determine, but may not be issued or sold at less than par.

White Pine County (WPC) Clerk Nichole Baldwin stated thank you Mayor and Council Members. I'd first like to commend Bob on this completely informational and comprehensive document containing all the facts on why this is the best choice. It makes sense to combine elections because I'm already running elections anyway. I perform all the same duties and tasks that Bob has to perform during his election years, but I do it with the election machines, which means there is less of a risk of errors in the reporting. We got those machines through a State grant program; they forked out almost \$70,000.00 for them this year. I'm really excited to go forward with this. I think the amount of money it's going to save the City is a step in the right direction. The fact of the matter is anytime the City chooses to do this, the councilmembers' terms are going to be extended; you can't shorten their terms. You can only extend them. I'm in full support of this. I want to remind Council Members that the County is held by the confines of the Interlocal Agreement that we approved last month. The County has no intention of coming back and asking for additional costs at any point in the future.

Mayor Van Camp stated we're only paying per ballot.

WPC Clerk Nichole Baldwin stated you're only paying 15 cents a voter.

Mayor Van Camp stated per registered voter.

WPC Clerk Baldwin stated yes. Other counties charge the cities more than what I've proposed in this Interlocal Agreement that's already been approved. What they charge cities, in addition to the 15 cents per voter, is a percentage of the space that the city races take up on the ballot, so if the city races take up five percent (5%) on the ballot, the clerk would invoice the city five percent (5%) of the total ballot costs

and I took that out because the City and the County need to work together. We're too small to duplicate a service like elections and I think since it's something I do already, I don't see why the City needs to pay a large amount.

Mayor Van Camp stated and we would have a larger voter turnout making that decision in elections.

WPC Clerk Baldwin stated that's absolutely correct. Last general election we had eighty-two percent (82%) turnout and that more than doubles the amount of turnout the City had at its last City election.

Mayor Van Camp asked Jennifer, how much time on the City election right now do you spend preparing everything?

Deputy City Clerk Lee stated a lot of time and that starts in January and after the election too. Bob and figured out, subtracting overtime for meetings, that it was about 145 hours in overtime and that's because there are statutory requirements for having the minutes approved within forty-five days, but when you're preparing for an election there are things you can only do during business hours.

City Administrator Switzer stated in a typical election year that would amount to about \$4,000.00 in overtime.

Councilwoman Gardner stated this totally comes out of the General Fund.

City Administrator Switzer stated every dollar of that.

Councilman Hanson stated so every two years we would save roughly

City Administrator Switzer stated \$15,000.00 to \$17,000.00 on average per election.

Councilman Hanson stated and most likely the voter participation.

City Administrator Switzer stated I think that's borne out. The empirical evidence suggests that whenever you have an election for county, state and national elections, you're going to get a higher turnout. The way it is now, every odd numbered year when the City conducts its election, we're having 25% to 28% of the voters of Ely deciding the next elected leaders for the other remaining 75%.

Councilwoman Gardner asked the Attorney General's office was contacted on this?

City Attorney Odgers stated yes. I spoke with the Secretary of State's Attorney General and I've included in your packet the Attorney General opinion from 2005 when Fernley went through this process, indicating there's nothing untoward about this.

Councilman Hanson stated and it's my understanding that I'm the only person sitting around here who would be term limited out if we adopt this; is that correct?

City Attorney Odgers stated correct.

Councilman Carson stated I still have a tough time with this. I don't disagree with Chuck's analysis. I know we can do it, but to me it's no different than us voting for a raise; that doesn't take effect until the next council is seated. To me it's morally wrong. To me, it's unethical. I have a hard time extending our terms out. If it was a month or two to get by, I can see it, but a year and a half? A lot of things have happened in three years and this is one of the hottest topics I've heard of. I've had phone call after phone call on this. I think there's more than one way to skin a cat and we need to find a different solution.

Councilwoman Gardner stated but it puts money back into the General Fund.

Councilman Carson stated it does and I appreciate the County for working with us and I don't want to see it fail, but if we could adopt this and it would take effect on the next Council, that would be fine because then the voters are realizing they're voting on that person for five and a half years, not a four year term.

Mayor Van Camp stated it's twenty-five percent (25%) of the voters making that decision.

Councilman Carson stated it's not my fault if they don't come and vote.

Councilwoman Gardner stated no, but this might help them all come to vote because that's what the City of Laughlin has told us.

Councilman Carson stated no and I agree with it, but . . .

Councilwoman Gardner stated I would like to get us out of the dark ages and become with everybody else in the State of Nevada. How many places hand count their ballots?

Councilman Carson stated I don't know.

WPC Clerk Baldwin stated not many anymore. I don't know of any.

City Administrator Switzer stated this is an opportunity for the Council – and I do appreciate the comments from Councilman Carson - to help improve our General Fund situation going forward. It's not going to help us in this budget cycle. Going forward those costs are just going to increase and the evidence suggests that if we make that move into having our elections coincide in the national, state and county election cycle that we're going to get a higher voter turnout; I hope that's what we all would like to see.

Councilman Flangas stated well, the cost of money that you're relating to with the figures are minimal in comparison to the waste that we have within City Hall right now. As far as I'm concerned, this is not a good idea. I know that Chuck is coming up with ideas, but they're not good. Go through the files. Twenty-five percent (25%) is coming out of our General Fund every month and maybe you can cover the cost of an election and mean actually what we really are, the City Council blamed for election. Right now, my phone calls tell me that if we go ahead and approve this, that a lot of you are going to be looking for a new job.

City Administrator Switzer stated Ernie, can you repeat what you just, your last part of your last sentence, please?

Councilman Flangas stated I said if you approve this, if they vote for approval and this takes place, I believe the public of the City of Ely are going to do something drastic and a lot of you are going to be looking for a new job. They don't like this kind of crap and I don't trust the County. I have not. They've been dragging this on for years and you think I'm going to work with them? No! Not until I see somebody there who actually knows the truth.

Councilwoman Gardner asked what are you talking about Ernie?

Councilman Flangas stated I do not feel comfortable with the County Clerk running our election.

WPC Clerk Baldwin stated I can respect Ernie's opinion on . . . If I've ever made a mistake in an election, I'd like to hear about it. I've put forth a hundred percent as a goal at work when I do my job. I follow the NRS closely. I have a close, tight working relationship with the Secretary of State's office. I've already put on a primary and a general election flawlessly and I intend to continue to do so.

Councilman Flangas stated who the hell is talking?

City Administrator Switzer stated that is the County Clerk, Nichole Baldwin talking.

Councilman Flangas stated well, I'm not going to be adverse. I don't trust her. I don't care what she said, okay.

Councilman Hanson stated I think there's a lot less chance for voter irregularities when we're doing it by computer.

Councilman Flangas stated every time we get involved with them, all it does is it hurts the City.

Councilman Hanson stated notwithstanding Russia interfering in elections, I don't think they're going to be bothering with the City of Ely and I think having it take place in a computerized format allows for a lot less opportunity for anything happening, such as when you get a very close count and we've had to do recounts. You also get a much more immediate result and I think the main objective is to increase voter turnout and to strengthen the democracy that we have here in the City of Ely and in addition, to get the benefit of reducing the cost substantially. Is it costing us \$5.00 a vote to run our elections versus 15 cents?

City Administrator Switzer stated \$13.00 a vote.

Councilman Hanson asked how can we afford to pay that for every voter when we can get it done for 15 cents? I don't know why it would be unethical to do that. If we were increasing our salaries, that would be one thing. The voters, like Ernie pointed out, if they are opposed to our remaining in office any longer, they can always do a recall election.

Councilwoman Gardner stated yeah. That was totally a threat and I do not appreciate, Ernie.

Councilman Hanson stated well, it's an option that voters have should they have a festering issue with one of us and we know that this community does those things because I've been through that process. To me it seems like a simple thing because we'd save a whole lot of money, it's much more efficient. We get a much larger turnout, which strengthens the whole of our citizens here who want to participate in democracy. A lot of people aren't even aware when we have a municipal election.

Councilwoman Gardner stated the Secretary of State, she checks what you're doing.

WPC Clerk Baldwin stated absolutely. I work closely with them throughout the entire process.

Councilwoman Gardner stated all the time, so I don't know where you think you're going to mess up because they're there checking on what she's doing, Ernie.

Councilman Hanson stated I haven't had any phone calls on this issue.

Mayor Van Camp stated I haven't had any.

Councilman Hanson stated and the only negative comment I've heard is from George, other than the discussion as stated.

Councilman Carson stated to me it is monetary too, Sam, because we're extending our time out - a year and five months - another \$9,000.00 in your pocket. I'm not saying any of us are after that.

Mayor Van Camp asked do you think I'm doing this for the money? I've got nothing but grief off of this job.

Councilman DeFelice stated I have received a lot of phone calls and the citizens that spoke to me about this said that they don't want this extended. Not one of them said they want it extended.

Councilwoman Gardner stated they don't want us to be extended.

Councilman DeFelice stated \$15,000.00 sounds like a lot of money when you don't have a lot of money. When the time does come for this to come up again sixteen months down the road, our finances should be in better shape than it is now. We're well over a \$100,000.00 in the red in this fiscal year, so I'm listening to the people who did vote.

Councilwoman Gardner stated and so am I. I've had a few phone calls and they think it's a great idea because everybody can come in and vote.

Mayor Van Camp stated a one-stop shop.

Councilwoman Gardner stated right, but I want to go forward. We're the only place in Nevada that hand counts the votes.

Councilman Carson stated I think it's a great concept and I hope we can eventually do it, but I'm not willing to extend my term. I just think it's unfair to the voters.

WPC Clerk Baldwin stated none of your terms have to be extended if you choose to resign. If you're ethically compromised, don't feel like you need to stay longer.

City Attorney Odgers stated the struggle you're having, if it's not you six, which six is it going to be? If you're ever to make this transition, you need to make the transition. There is an option and you identified it, to put this in after the next round, but that still leaves three of those City Council members extended. There is no legal impediment to it and you and I have had that conversation.

Councilman Carson stated right.

City Attorney Odgers stated but if you want to have the option of post-dating it, you can put it in the ordinance.

Councilman Hanson asked would we be able to post date it tonight with the way the agenda item is written or would we have to come back with an agenda item with that specific date in the future?

City Attorney Odgers stated this is the Second Reading, so you can make your final modifications to it.

Councilwoman Gardner stated but who says the County wants to go along with it.

WPC Clerk Baldwin stated there's a small amount of time to decide before the next election cycle.

Councilman Carson stated what kind of time are we looking at?

WPC Clerk Baldwin stated your election cycle is next year and this wouldn't go into effect until '20, so there's time to decide, but if you guys want to save this fifteen grand in your next fiscal year you might want to make this decision sooner rather than later.

Councilman Carson stated right. Can we post date it and bring it back next meeting?

Councilman Hanson stated we can post date it tonight.

Councilman Flangas asked I want to know how much money out of our General Fund did the County take this month.

City Administrator Switzer stated I'm not sure we understand the extent of your question.

Councilman Flangas asked why should we be dealing with someone who is not factual to the City of Ely? Do you have an audience there tonight?

City Administrator Switzer stated yes, we have individuals in the audience.

Councilman Flangas stated I want you to ask the audience if they're in favor of this by a show of hands or if they're in disfavor of this by a show of hands.

Mayor Van Camp stated no.

Councilman Carson stated so if we postdated this, Chuck, it goes into effect next election.

City Attorney Odgers stated if you go to page 6 of the proposed ordinance, 1-8-1A, so that nobody on this council could be accused of self- . . .

Councilman Hanson stated promotion.

City Attorney Odgers stated you could change the 2019 to 2022 . . .

Councilman Flangas asked did you get the count, the show of hands?

Mayor Van Camp stated no, I'm not allowing that.

City Administrator Switzer stated the Mayor's not allowing that.

Councilman Flangas asked well, why not?

Mayor Van Camp stated no, I'm not allowing it. I'm sorry. Move forward.

Councilman Flangas stated alright. Go forward then.

City Attorney Odgers stated so we could put the date so that the three that are up this year, when that term gets elected it will be for the five years; it will be four years, but it will be extended. Then when the next three go, they'll be extended. So we'll just stagger those dates throughout, starting with 1-8-1 (A)(B)(C), so that when they're voting on the next go-round, they'll know the seat is going to be filled for five years and five months.

Councilwoman Gardner asked do we have to take this back to the County and change the . . . Now we're going to have to wait. We've got to take it back. We've already made the agreement.

City Attorney Odgers stated there's a termination of the Interlocal agreement that I inserted there. You have to notify them ninety days prior to November 30<sup>th</sup>.

Councilman DeFelice stated or we can just vote right now.

City Attorney Odgers stated if it doesn't pass, you still have to deal with the Interlocal Agreement.

Councilman Hanson moved to approve the Second Reading of Ordinance 708. Councilwoman Gardner seconded the motion. The motion failed 3 to 2, with Council Members Carson, Flangas and DeFelice voting Nay.

Councilwoman Gardner stated why don't we put this on the next agenda.

Councilman Carson stated okay.

**Councilman Flangas ended his telephonic participation in the Ely City Council meeting at 6:11 p.m.**

2. Councilman Carson – City Administrator Switzer – Discussion/For Possible Action – Approval to direct City Administrator to send written Ely Fire/EMS Services proposal to White Pine County with a monthly fee of \$14,500.00, \$174,000.00 annually.

Councilman Carson stated we can send it to the County and see what they say.

Councilman Hanson moved to direct the City Administrator to send a written Ely Fire/EMS Services proposal to White Pine County with a monthly fee of \$14,500.00, \$174,000.00 annually. Councilman Carson seconded the motion. The motion carried unanimously.

**C. NEW BUSINESS**

2. Councilman Hanson – White Pine County (WPC) Airport Manager Lance Gale – Discussion Only – Presentation on the Air Races to be held at WPC Airport in June 2018.

WPC Airport Manager Lance Gale stated the Formula 1 racing organization is going to perform the air races here in Ely, June 13-16, 2018; this will be the first race in thirty-four years in the western United States. We estimate two to three thousand people will be here and everyone we've met with say our estimations are low. We want to make this an annual event in our community. We've developed a 15-member committee to work with the Federal Aviation Administration and the EMS people. All the general aviation things at the Airport will continue to happen, *Air Med* flights, etc., and we'll shut down the air show if necessary. Lloyd Phillips will give you a layout at the Airport. We'll have camping at the Airport. We've met with the Nevada Department of Transportation. There'll be signage on Highway 93. The other reason why we wanted to make this presentation to the City Council is that possibly 5,000 people for five days in our community is a big issue. We can only feed X amount of people at one time. We're limited how many people we can put up in hotels. We have spots for camping. We've reached out to other communities - Wendover, Eureka, Elko - to facilitate some of that overflow. We'll be back to the City Council because we'd like to use Broadbent Park. These planes fly about 100 feet above the ground at 350 mph.

Lloyd Phillips stated said half come in their own motor homes and we will have 350 spaces next to the race course. We will have vendors providing pumping of water tanks for those who want it and *Mt. Wheeler* is working with us to provide additional lighting out there and power stations. North of the airport there's a County-owned gravel pit that will be scraped flat for five hundred parking spaces. There will be a shuttle at the Airport. The racers are excited they'll have a hangar. The race course dimensions are prescribed by the FAA. People from Spokane and Phoenix are calling that they want to come.

City Administrator Switzer asked is your event large enough to where you'll have to have a temporary FAA tower?

Lance Gale stated yeah. We have an Air Boss coming who will do nothing but run the races. We have air-controlled certified people to hold local traffic.

Lloyd Phillips stated even during a race, certain types of flights have to take place; if they have to take place, we'll shut down right in the middle of a race. There are times during the day that the Airport will re-open for General Aviation.

Lance Gale stated our daily flights will happen at the Airport.

Lloyd Phillips stated if we foul up the food, housing and sanitation, it doesn't matter how pretty the planes are.

Lance Gale stated in the evening, people will be infiltrating into this community. The last place they put this on in the United States generated ten million dollars over a five day period.

3. Councilman DeFelice – Sally Gust of Bristlecone Arts Council – Discussion/For Possible Action – Approval to direct the City Attorney to draft an ordinance reducing the space fee from \$10.00 per space per day to the prior amount of \$2.00 per space per day as found in City Code 3-9-4B.

Mayor Van Camp stated I have a conflict of interest because I'm one of their longest vendors.

**Mayor Van Camp handed the gavel to Mayor Pro Tem Hanson.**

Annette Marshall stated the Bristlecone Arts Council was established in 1984. We are a Non Profit organization that's able to bring the arts to our community through our hard work and the support of those who donate. Arts in the Park is underneath the Bristlecone Arts Council. We are truly one of the most isolated communities in the lower forty-eight states, so we need to bring things in. Arts in the Park is a 'boat load' of work for the Council. The Council has willingly paid for the vendor cost for each vendor. Recently we undertook a website for people to apply online, for younger vendors that can be with us for awhile, so we raised the cost of \$75.00 for a 10 x 10 to \$90.00. At the 2016 Arts in the Park, our vendor cost was \$424.00, at \$2.00 per vendor per day. When Catherine went to pay last year, it raised to \$2,070.00. We have pre-paid vendors that pay for the next year at the end of the show. In 2016 our operating expenses were \$5,417.28; that includes the \$424.00. Our operating expenses for 2017 were \$6,608.63, which includes the City business license of \$2,070.00. Our average income from our pre-apps is \$5,889.00. It doesn't take long for a non-profit organization to not be able to put on events if we're paying out \$1,000.00 more each year. Some might think 'Push that to the vendors'. We've already increased it to \$90.00 and we're asking for over fifty percent of our vendors in the park to come from Idaho, Arizona, Utah, California and farther. The more we raise the money per vendor, the more vendors we're going to lose. When we raised it up to \$90.00, some said 'I can't come back'. This is partly because

we live in an isolated community. We're asking that the City Council reduce the fee back to \$2.00 a vendor per day. We can't keep doing this event if we continue to lose money.

Councilman DeFelice moved to direct the City Attorney to draft an ordinance reducing the space fee from \$10.00 to \$2.00 per space per day as found in City Code 3-9-4B.

City Attorney Odgers asked is that just for non-profits or is it across the board?

Councilman DeFelice stated just for this event.

City Attorney Odgers stated so modify your motion for Arts in the Park.

Councilman DeFelice stated I'll amend that for the Arts in the Park.

Councilman Carson seconded the motion.

Councilwoman Gardner stated that goes into the General Fund.

City Attorney Odgers stated Mr. DeFelice, I was hoping you were going to say for all non-profits, so they're all dealt with the same way. I don't think Arts in the Park pays sales tax.

Ray Rivera of the Bristlecone Arts Council stated the vendors pay sales tax to the State, which we have to audit and send to them.

Councilman DeFelice stated I'm sure there's some profit in the community for the weekend. I'll modify my motion to include all non-profits.

Sally Gust stated I had two yesterday that are not coming because of the \$90.00. Why not give us a business license?

Councilman Carson amended his second to include all non-profits.

Councilman DeFelice's motion passed 2 to 1, with Councilwoman Gardner voting Nay.

**Mayor Pro Tem Hanson passed the gavel back to Mayor Van Camp.**

4. Mayor Van Camp – John Mueller of *Acres Dispensary, LLC* – Discussion/For Possible Action – Issuance of a Medical Marijuana Dispensary License to *Acres Dispensary, LLC*, to be located at 940 E. Aultman Street, Ely, Nevada.

John Mueller stated I operate four marijuana establishments. I have been in this business for four years. I'm the CEO and largest shareholder of the company. We currently have thirty-eight employees at the cultivation facility. We're sending kids to schools and donating to Senior Centers. We would love to be part of the solution for the high school here. The property we're talking about today is *Joker's Wild*, so we're coming into another vacant building and I can promise you it will be the prettiest thing on the road. It will be highly controlled and regulated. We've also reached out to the Tribal Dispensary, do distribution work throughout the State and would be happy to help them. I think competition is good no matter what business you're in.

City Attorney Odgers stated you have my legal analysis.

Councilman DeFelice stated it's fairly close to the Elementary School.

City Attorney Odgers stated it's more than 1,000 feet. The law requires not less than 1,000 feet.

Councilman Hanson stated my son lives two blocks from here.

City Attorney Odgers stated it's properly zoned. It's zoned C-2 currently. Mr. McElroy's application at the State level failed.

Councilman DeFelice asked what's the estimated time for the State to issue the City a license?

City Attorney Odgers stated the State can only open up licensing for ten calendar days in each year.

Councilman Hanson stated I received an email today from Mr. Dice with a monetary figure.

City Attorney Odgers stated Nevada law for Mr. Mueller says that on the medical marijuana side, we can charge them the \$30,000.00. On the recreational, we can only get 3% of the gross, so there is no 'give and take' percentages or anything of that nature on this as a strict business, just like Mr. DeFelice's business as *Hunters*, other than we take 3% of the gross to include the business license on the retail side.

Councilman Hanson asked and that would be the same if we did it with the Tribe?

City Attorney Odgers stated yes.

Joe Dice stated no, the Tribal Compact you guys voted on and approved was 3.5% sales tax, plus the . . .

City Attorney Odgers stated the City didn't agree to a Tribal Compact relative to sales, only on the cultivation.

Amy Castaldo stated the State actually regulates what you guys are allowed to charge, so even if the Tribe donated 3.5%, you're still only allowed to accept the 3% gross revenue; it can't be any more than liquor and that went into effect in August.

Joe Dice stated the Tribe did offer you a compact and the one I'm referring to is the one the Mayor vetoed previously and it was 3.5% sales tax. On September 25<sup>th</sup>, Steve Gilbert issued the Tribe a MM Nevada license for the City of Ely. Originally the Tribe license would count towards your one. You mentioned competition is good. I believe marijuana is great for your community, whether it be his store or ours; competition, not so much. Nevada Revised Statutes took into the federal mandates and what would trigger federal enforcement and said 'This population base is allowed one dispensary.' The Tribe started to move forward as *CC Shoshone*, which is in the City limits; I've sent you guys all an email showing the license that was issued for a dispensary at that location. When the mayor and you guys toured, I showed you how it's had already been built out to possibly house a dispensary and the State on September 25<sup>th</sup> issued the license for that, one license that's allowed for this population size; there's a reason for that and why we haven't moved forward with that. A lot of things happened: The Cease and Desist. The Compact moved forward with cultivation. It's still on the table to move forward and have a compact with the City and you will get a better deal with the Tribe. So, the Tribe is still interested in compacting with you. If the price goes down, your tax revenue is going to go down. The Tribe's not worried about the competition; they have a lot of competitive advantages. You need to decide if you want competing marijuana stores in your town. The Tribe's store is very discreet, no billboards, no advertising, no websites, the drive-through isn't going; all that stuff's going to change when you have the two stores in town. We've talked about putting it in the red light district, that's not the Tribe's business model because they have a heavy medical focus and it's on the edge of town. When Joan Conte left and Steve Gilbert became the head of Taxation, I don't think he realized that he'd issued that State license already. I sent you guys all a copy, signed by Steve Gilbert, for a marijuana dispensary for the Ely Shoshone Tribe in the City of Ely in the City limits; he only allowed one for a reason. At least table it until Steve Gilbert has a chance to look at what he signed.

City Attorney Odgers stated I disagree with Mr. Dice. The compact with the State is very specific that the Tribe can be issued one and that doesn't take away - and this is what Joan Conte told me specifically when I asked her that question when I went to that training in July of last year - the compact has no impact. Those licenses don't count against the licenses to be issued in the jurisdictions. In addition I provided you a copy of Nevada Revised Statutes where it indicates that there are two licenses for a county with a population of less than 55,000. So even if Mr Dice is correct, which I don't believe he is, there would still be two licenses allowed in White Pine County, so the City of Ely did not request that Ely Shoshone Tribe be issued a license for the City of Ely. So the City's ability to obtain a license, in my opinion, has not been taken away by the unilateral decision of the State to issue it to the Ely Shoshone Tribe and I have nothing against the Ely Shoshone Tribe.

Joe Dice stated White Pine County is allowed two, the City of Ely is allowed one, so there's actually three licenses. Nowhere in the NRS does it say Ely's allowed one dispensary, unless it's Native American. If you want an out-of-town dispensary and the Ely Shoshone Tribe is here, this is where the money is going to stay circulating in your community. I'm sure they'll do great things for your community, except live here and spend his profit here; that's going to Las Vegas.

John Mueller stated all of our staff will be located here and Ray Eguckle, who's the head of the marijuana division, and everybody you just mentioned reports up to Ray Eguckle; he's the one that had me reach out to you folks here. Submitting this to the State - worst case scenario if they turn us down - if he's correct about that, I've wasted a lot of time if he is and I think we did our homework pretty well. There's a reason they reached out to us and a number of people; we have a specific rural strategy for *Acres* and we want to be part of rural communities.

**\*Mr. Mueller emailed the City Attorney on April 3, 2018 requesting that his email, appearing below, be added to the record where *Acres* medical marijuana dispensary license was considered, which was March 8, 2018.**

From: John [mailto:john@acrescannabis.com]  
Sent: Tuesday, April 03, 2018 10:44 PM  
To: Charles Odgers <codgers@elycity.com>  
Subject: City Council 3/22/18

Dear Chuck – It has been brought to my attention that I misspoke on a public comment I made at the 3/22/18 City Council meeting. I would request when the minutes are posted, I would like to add this email to the record reflecting my correction.

The following is the statement posted by Ely Times:

*Mueller stepped in and added that his staff would be located here. "If Mr. Dice is correct, which I don't believe so, moving forward, worse case scenario they turn us down, if he is correct, then I've wasted a lot of time, I think we've done our homework pretty well and our position is good, there's a reason department of Taxation reached out to us, we have a specific strategy," Mueller said.*

I would like to amend the fact that the "department of Taxation reached out to us". At no point did the Department reach out to Acres, to the contrary Acres requested and received an in-person meeting to discuss expansion of our other facilities and I asked when the Department the rural dispensary applications would be opening, which triggered myself to explore the status in Ely, Elko and other rural markets opportunities. The Department never gave Acres any preferential treatment or endorsement.

In the heat of moment in the exhaustive public discussion, I unknowingly miss conveyed this fact. It was not intended to mislead the Mayor, Council or the Public.

My apologies for this error, as I tirelessly work to always be professional and accurate.

John Mueller  
Managing Partner  
(816) 914-2200 c.  


Councilman DeFelice asked when would you anticipate an opening?

John Mueller stated I went through the building today and there's a lot to be done. We're going to make sure we have our approvals. We're paying a lease to the Anderson brothers right now. I completely disagree related to tax revenue coming into the City that it's going to drop the value; it mathematically makes no logical sense to me that would transpire.

City Attorney Odgers stated I think the question he's asking is once you get the approval how long until you think you can do your grand opening?

John Mueller stated I think it would probably be a ninety day and then I've got to bring the State back in to do a final inspection. The State in my other properties, I get them at least every other week; they come in and audit your books, go through your vault, etc.

Councilman DeFelice stated do you have a sales potential right now?

John Mueller stated yeah. I think it's about a million-dollar property. I think we'll do about \$100,000.00 a month out of there, so you would see \$30,000.00 in gross revenue sales and then we pay the \$30,000.00 in basic business license fee and then the ongoing business license fees associated with that.

Councilman DeFelice stated I'm hoping you'll do more than paint the building.

John Mueller stated correct. New roof, new front. Go to acrescannibus.com and you can see my existing facility, so I think we'll make you proud on that point.

Councilman Carson moved to issue a Medical Marijuana Dispensary License to *Acres Dispensary, LLC*, to be located at 940 E. Aultman Street, Ely, Nevada. Councilman DeFelice seconded the motion. The motion carried 3 to 1, with Councilman Hanson voting Nay.

5. Mayor Van Camp – Discussion/For Possible Action – Approval of letter to the Department of Taxation requesting opening a new application period for a medical marijuana dispensary in the City of Ely.

Councilman Carson moved to approve a letter to the Department of Taxation requesting opening a new application period for a medical marijuana dispensary in the City of Ely. Councilwoman Gardner seconded the motion. The motion carried unanimously.

6. Councilman Carson – Discussion/For Possible Action – Approval of Mutual Modification of Interlocal Agreement between White Pine County Fire District, White Pine County and the City of Ely for Temporary Fire Protection and EMS Services.

Councilman Carson stated I sponsored this, so we could talk about it, but I'm not a big fan of it. Bob and I talked about it. I don't think we should sign it. The big problem I have is those life flights originate in City limits, so we need to respond to those.

City Administrator Switzer stated if we sign this agreement, the Sheriff's office will not call the City for lift flights out to the airport. How are we going to be able to provide that service in the future if we're not being dispatched?

City Attorney Odgers stated this Interlocal Agreement terminates June 30<sup>th</sup> of this year.

Councilman Carson stated that is correct.

City Fire Chief Rivera stated the gist of the re-write was some issues with calling the closest entity to respond to any incident; could you not agree on it and just take No. 5 off?

City Attorney Odgers stated you'd have to make a motion to approve absent No. 5 and then send it back to the County.

Councilman Carson stated since this is getting ready to expire anyway, I don't see why we don't assign a negotiation team from the City to meet with the County.

City Attorney Odgers stated that's not part of this agenda item.

Councilman Carson stated true.

City Attorney Odgers the ultimate problem is this is 'dove tailing' off of some of the other issues that have arisen over the last year.

Councilman Carson stated right.

City Attorney Odgers stated with Ross and crews getting called off half way out, submitting bills and not getting paid . . .

Councilman DeFelice asked why do you think they put No. 5 in there?

City Administrator Switzer stated I believe the County is looking to franchise.

City Attorney Odgers stated the County has on their agenda for their next meeting an ordinance relative to franchising; their intent, based on that ordinance, is to franchise in the County and to issue a franchise to the hospital, so that the hospital will be able transport the patients and the County will receive franchise revenue from that ordinance. The first problem becomes whether they can do an ordinance that grants a franchise that originates within the City of Ely; I believe they're exceeding the scope of their authority by trying to do something along that vein. Who would you like to notify the County Commission that this died?

Mayor Van Camp stated Bob.

7. Councilman Carson – City Treasurer Trask – Discussion/For Possible Action – Approval to issue back paychecks with benefits for a total amount of \$15,392.40 to City of Ely paid Firefighters responding as volunteers on emergency calls and/or participating in required EMT re-certification training directly related to their job classification and/or as training officers conducting Fire/EMS training courses over the last two years, pursuant to the Fair Labor Standards Act.

City Treasurer Trask stated it was decided on. In the motion Chuck had you guys bring it back when we got the figures.

City Attorney Odgers stated you need to get a release from each of the employees.

City Treasurer Trask stated according to what we were taught in our class, only a judge or the Department of Labor could sign off on something with this, that it wouldn't stand in a court of law if our employees signed off on it.

City Attorney Odgers stated I'm not sure about that, but . . .

City Treasurer Trask stated they did say our attorney can call them.

City Fire Chief Rivera stated there were three attorneys that did the class for us.

City Attorney Odgers stated if we're going to expend \$15,000.00 to resolve the matter, we need to be able to resolve it, so it that it can't come back.

City Fire Chief Rivera stated they did sign off on each.

City Treasurer Trask stated they did sign on their sheets, saying they agreed with it. What we were told in our class is you can have them sign off saying they won't sue us, but they wouldn't have a case because we mitigated it.

City Attorney Odgers stated I'll reach out to the FL city folks. If we send the mitigation to the Department of Labor and the Department of Labor sees the individual employees signed it, the Department of Labor signs it and you don't have any exposure.

City Fire Chief Rivera Kurt Vaughn made the statement that our attorney, since you weren't at the class, could reach out to him for counsel. Either way, we did verify that these hours are true and we have to pay. If they find more hours that we missed, we will have to pay that too.

Councilman Carson moved to approve issuing back paychecks with benefits for a total amount of \$15,392.40 to City of Ely paid Firefighters responding as volunteers on emergency calls and/or participating in required EMT re-certification training directly related to their job classification and/or as training officers conducting Fire/EMS training courses over the last two years and to direct the City Attorney to reach out to Kurt Vaughn. Councilman Hanson seconded the motion. The motion carried unanimously.

8. Council Members – City Administrator Switzer – Discussion/For Possible Action – Approval to re-negotiate Ely Volunteer Fire Hall lease.

City Administrator Switzer stated the lease is coming up for renewal June 30<sup>th</sup>, so I thought it would be time to renegotiate or renew.

Ely Volunteer Firemen President Brett North asked so you're wanting to re-negotiate now or before June 30<sup>th</sup>?

City Administrator Switzer stated before June 30<sup>th</sup>.

Councilman Hanson moved to authorize the City Administrator to re-negotiate the Ely Volunteer Fire Hall lease. Councilwoman Gardner seconded the motion. The motion carried unanimously.

9. Council Members – City Administrator Switzer – City Treasurer Trask – Discussion/For Possible Action – Acceptance of *Hinton Burdick, PLLC's* Accounting and Advisory Services January 31, 2018 proposal for a monthly fee of \$2,400.00.

City Attorney Odgers stated you should have my legal analysis.

Councilman Hanson moved to accept *Hinton Burdick, PLLC's* Accounting and Advisory Services January 31, 2018 proposal for a monthly fee of \$2,400.00. Councilman Carson seconded the motion. The motion carried 3 to 1, with Councilwoman Gardner voting Nay.

10. Mayor Van Camp – Discussion/For Possible Action – Approval to expend \$350.00 from the Recycling Center expense account in the Landfill fund to pay for the Recycled Art Contest cash prizes.

Mayor Van Camp stated this would be my third annual; it's to promote our recycling efforts. The Museum has again let us use the museum for a month of display for these projects. I've reached out already to all the schools, youth clubs, mines, Eureka, Lund, Baker, everybody and I'll be at the Senior Center tomorrow. It's been very successful.

City Treasurer Trask stated it's an unbudgeted expense.

Councilman Hanson moved to expend \$350.00 from the Recycling Center expense account in the Landfill fund to pay for the Recycled Art Contest cash prizes. Councilman DeFelice seconded the motion. The motion carried unanimously.

11. Councilman Carson – Discussion Only – Update on status of moving forward with placing landfill fees on the county tax rolls and collecting past due amounts owed.

White Pine County Treasurer Catherine Bakaric was invited up to the podium.

City Administrator Switzer stated I had a conversation with White Pine County Treasurer Catherine Bakaric a week ago and what I took away from our conversation is that the County wants the City to move forward as it relates to a GID, is that correct?

WPC Treasurer Bakaric stated yes. In that joint meeting, one of our Counsel's points and my points was we could identify specific NRS that said the fees from a GID could be placed on the tax roll. You asked me if we were doing that and I was like, it's my understanding that if that was going to be considered, it would be considered here.

Councilman Carson stated I was under the impression the attorneys were going to get together and maybe the accountants.

City Attorney Odgers stated Mike and I are working on the collection side of it. We agreed, before the end of the fiscal year, to serve ten properties with collection actions in District Court; five are in the County and five in the City above the \$10,000.00 limit.

Councilwoman Gardner asked so a GID would be its own entity with its own board?

WPC Treasurer Bakaric stated yes.

12. Councilman Carson – Discussion Only – Update on discussion of obtaining fuel and propane bids for the City.

City Administrator Switzer stated as you recall the Council approved letting out a bid process for propane and diesel fuel; we received only one bid for each commodity. In the last couple days, I met with a deputy director for State purchasing; they have contracts for all kinds of vendors at pre-approved prices, including *Pilot* and *Thomas Petroleum* and there might be an opportunity for us to save money. We just have to contact those vendors, mention the contract with the State of Nevada and see what's most cost effective. *Suburban Propane* is also on that list.

Mayor Van Camp stated I have a relationship with the owner of *Chris' Service*.

Councilman DeFelice asked if the prices were to fall, are we locked in?

City Administrator Switzer stated I wouldn't propose we do a multi-year. I'm not sure if you're stuck with that price. It's a cost-plus figure.

City Administrator Switzer stated if that's the Council's concurrence, I'd like to move forward with that.

Councilman Carson stated yes.

Councilwoman Gardner stated yes.

## 10. PUBLIC COMMENT

Trent Griffith stated Trent Griffith, Ely Shoshone Council Member. I find it disheartening on the effort that we've put in on compacting with you guys on getting a dispensary and working with you guys on choosing the actual location.

George Chachas stated I'm disappointed with the giving out of the license when you've had locals that live here, grew up here. You have a member of the Tribe that has the only silver star by any veteran that I know of. At least give them equal opportunity! You Mayor vetoed it when the Council allowed it, yet the Council never came back to give them a second chance. You're the ones with financial problems. There's a renovation project being done on the home next to Jim Alworth and down across the street from Councilman Carson on Avenue I; I did not notice the building permit and that contractor's the same person who screwed up on my re-roofing on my building and you have yet to address that discrepancy. Either we have regulations or we don't. Quit making rules that you can't live with. I want equal protection under the law. You have two junk yards located near where the new *Holiday Inn Express* is to be located; they do not meet City Code and if you're sincere in improving Ely's entrances, you put them on notice and stay out of Central Ely. Clean up those areas first where the tourists are going to come in. Madam Mayor, you approved a Special Events license for an individual who needs a regular business license; he needs to have a State business license, as outlined in a recent article by the Secretary of State and printed in the local newspaper dated March 2, 2018 and a Nevada Health Permit, since he's selling homemade tacos. I didn't see a commercial kitchen anywhere near there. To date I've not received any information

regarding the return of 490' of linear pipe by the City Attorney. The two new businesses that were approved on the 400 block of Murry Street still do not have ADA access.

John Lampros stated when I was president of NACO, we negotiated with the Nations of the State, the Shoshone and all the Nations here and I think there were forty some representative's attorneys. I believe that the Nations could do what they wanted, but it didn't affect the elected governments. In other words, if you wanted to put a dispensary in – we dealt with the smoke shops at the time - the city and the Nation could still do their job. I'm against both; I don't think it's a great idea, but I understand you're trying to make money. Ask the League of Cities and NACO, I think there's something that states the Nation is exempt. Is that correct, Chuck?

City Attorney Odgers stated the Compact says the same thing.

John Lampros stated exactly. Mr. Carson solved your problem on the elections; you guys just didn't listen.

**11. ADJOURNMENT: THE MEETING MAY BE ADJOURNED BY APPROPRIATE MOTION OF THE CITY COUNCIL.**

Councilman Hanson moved to adjourn the regular meeting of the Ely City Council at **7:47 p.m.** Councilwoman Gardner seconded the motion. The motion carried unanimously.

\_\_\_\_\_  
**MAYOR**

\_\_\_\_\_  
**ATTEST**